ORIGINAL NEW APPLICATION



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RECEIVED BEFORE THE ARIZONA CORPORATION COMMISSION

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COMMISSIONERS

GARY PIERCE, Chairman BOB STUMP SANDRA D. KENNEDY PAUL NEWMAN BRENDA BURNS AZ CORP COMMISSION DOCKET CONTROL

In the matter of:

BENJAMIN M. CVETKOVICH,

STERLING INVESTMENTS GROUP INTERNATIONAL, LLC,

GEORGE A. PRUDEN and JANET F. PRUDEN, husband and wife,

Respondents.

DOCKET NO. S-20843A-12-0121

NOTICE OF OPPORTUNITY FOR HEARING REGARDING PROPOSED ORDER TO CEASE AND DESIST, ORDER FOR RESTITUTION, ORDER FOR ADMINISTRATIVE PENALTIES AND FOR OTHER AFFIRMATIVE ACTION

NOTICE: EACH RESPONDENT HAS 10 DAYS TO REQUEST A HEARING

EACH RESPONDENT HAS 30 DAYS TO FILE AN ANSWER

The Securities Division ("Division") of the Arizona Corporation Commission ("Commission") alleges that respondents BENJAMIN M. CVETKOVICH, STERLING INVESTMENTS GROUP INTERNATIONAL, LLC, and GEORGE A. PRUDEN have engaged in acts, practices, and transactions that constitute violations of the Securities Act of Arizona, A.R.S. § 44-1801 *et seq*. ("Securities Act").

The Division further alleges BENJAMIN M. CVETKOVICH is a person controlling STERLING INVESTMENTS GROUP INTERNATIONAL, LLC within the meaning of A.R.S. § 44-1999, so that they are jointly and severally liable under A.R.S. § 44-1999 to the same extent as STERLING INVESTMENTS GROUP INTERNATIONAL, LLC for violations of the Securities Act.

Arizona Corporation Commission

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I.

JURISDICTION

1. The Commission has jurisdiction over this matter pursuant to Article XV of the Arizona Constitution and the Securities Act.

II.

RESPONDENTS

- 2. At all times relevant, Respondent BENJAMIN M. CVETKOVICH ("CVETKOVICH") has been a married man and a resident of the state of Colorado. At all times relevant, CVETKOVICH offered and sold unregistered securities within and from Arizona in his individual capacity, and on behalf of STERLING INVESTMENTS GROUP INTERNATIONAL, LLC as its managing member. CVETKOVICH has not been registered by the Commission as a securities salesman or dealer.
- 3. Respondent STERLING INVESTMENTS GROUP INTERNATIONAL, LLC ("SIGI") is a Colorado limited liability company. SIGI was organized under the laws of the state of Colorado on March 14, 2008 and has been in delinquent status since September 1, 2009. SIGI has not been registered by the Commission as a securities salesman or dealer.
- 4. At all times relevant, Respondent GEORGE A. PRUDEN ("PRUDEN") has been a married man and a resident of the state of Arizona. At all times relevant, PRUDEN offered and sold unregistered securities within and from Arizona in his individual capacity, and on behalf of SIGI. PRUDEN has not been registered by the Commission as a securities salesman or dealer.
- 5. JANET F. PRUDEN was at all relevant times the spouse of Respondent PRUDEN. JANET F. PRUDEN may be referred to as "Respondent Spouse". Respondent Spouse is joined in this action under A.R.S. § 44-2031(C) solely for purposes of determining the liability of the marital community.
- 6. At all times relevant, Respondent PRUDEN was acting for his own benefit and for the benefit or in furtherance of his and Respondent Spouse's marital community.

7. CVETKOVICH and PRUDEN, both individually and doing business as SIGI, and SIGI may be referred to collectively as "Respondents."

III.

FACTS

- 8. From on or about September 2007 until at least October 2008, CVETKOVICH and PRUDEN represented to investors and offerees that SIGI was in the business of trading stock for profit using pooled investor money ("stock trading investment"). CVETKOVICH represented himself to investors and offerees as a "general partner" and "lead audit consultant" of SIGI. PRUDEN represented himself to investors and offerees as a "general partner" of SIGI.
- 9. CVETKOVICH and PRUDEN represented to investors and offerees that the investments would be made through SIGI, an "investment club", with CVETKOVITCH performing the trading activities.
- 10. SIGI's trading activities were performed using one or more TD Ameritrade accounts ("trading accounts").
- 11. Starting in approximately late 2007, Respondents held seminars for investors and offerees regarding the stock trading investment in Scottsdale, Arizona; Albuquerque, New Mexico; and Anaheim, California. Both in state investors and out of state residents attended Respondents' Arizona seminar.
- 12. At the seminars, PRUDEN and CVETKOVICH gave presentations to investors and offerees, and provided investors and offerees with handout materials concerning the stock trading investment. The materials listed both PRUDEN and CVETKOVICH as "general partners" of SIGI, and invited attendees to "enter this business opportunity through membership in SIGI, LLC."
- 13. In return for their investment, investors obtained a membership interest in the limited liability company, SIGI. SIGI's sole activity was stock trading, and SIGI's "members" were required to participate in the stock trading investment with 100% of their capital contribution.

- 14. Respondents represented, and investors expected, a profit as a result of the stock trading investment.
 - 15. Investors were not required to meet any standards or qualifications to invest in SIGI.
- 16. Respondents sold investments to at least five Arizona residents. Investments were also sold to at least two out of state residents that attended an Arizona seminar. The capital raised by Respondents from these investors totals \$111,000. Of this total, only \$2,000 was paid back to investors by Respondents.
- 17. The management of SIGI was vested in the managers under its Articles of Organization, and investors were given no rights to participate in or control the management of SIGI. None of the investors participated in the trading activities, directed such activities, or had access to the trading accounts.
- 18. PRUDEN represented to investors that investor funds were deposited "in the SIGI trading account."
- 19. Respondents failed to disclose to investors that the trading accounts were opened by CVETKOVICH individually, and controlled by CVETKOVICH, with no reference to SIGI.
- 20. CVETKOVICH failed to inform investors and potential investors that he had failed to pay federal taxes in 1997 and 2000 totaling \$531,074.06, ultimately resulting in a 2009 tax lien on the trading accounts opened in CVETKOVICH's name individually.
- 21. Investors were required to pay SIGI a commission from any profits from the stock trading investment which was between 20% 30%, depending on the individual investor's capital contribution. The commissions were then to be split equally between PRUDEN and CVETKOVICH.
- 22. Respondents represented to investors and potential investors, either verbally or in writing, that the stock trading investment in SIGI was "safe", and failed to adequately disclose risks of the investment, instead promoting an inflated return.

- 23. For example, Respondents made the following representations to investors and offerees:
 - (a) "Safe investment strategies that utilize a proven system of investing;"
 - (b) "[W]e will make a good and consistent return, and we will not be exposed to the huge losses that a volatile market can produce;"
 - (c) SIGI can "consistently achieve stable growth and gains in spite of the spikes of an up and down market" and "ensure we invest wisely, safely and make money every time;"
 - (d) SIGI's "position is always cash and can respond to market changes effectively without incurring losses;"
 - (e) SIGI's trading strategy was "in the safe middle range" and "we will not be exposed to the huge losses that a volatile market can produce;"
 - (f) Promoting an annual return of 20% or more; and
 - (g) Respondents provided potential investors with example trading scenarios that showed only profits and downplayed the risk of loss.
- 24. Respondents communicated to investors and offerees that they would use margin accounts to "triple the amount of the investment" and represented this leveraging was "safe" without adequately disclosing the risks of margin trading.
- 25. PRUDEN and CVETKOVICH told investors and potential investors that SIGI had a "conservative" investment strategy and that investor funds were not exposed to the market for lengthy periods of time "because far too much can happen that may have an adverse impact." PRUDEN and CVETKOVICH represented that the key part of the investment strategy was trading in the stock market for not more than one week per month, which allowed cash funds to remain "safely in a bank account" for the remaining period.
- 26. In mid-2008, Respondents unilaterally changed the trading strategy to trade more frequently than one week per month, but failed to advise investors and offerees of this change.

1	27.	Respondents represented to investors and offerees "maximum liquidity" of their
2	investment, a	nd that investors could "receive profits in cash monthly", had "[t]he opportunity of
3	withdrawing the full balance of your capital account at will with 30 days notice", and "can take out	
4	cash as neede	d to accomplish your own personal goals." PRUDEN told at least one investor that he
5	could withdra	wal a portion or all of his investment funds with "10 business days notice."
6	28.	Investors have repeatedly asked Respondents to return of all or part of their
7	investment, and have been denied the return of their funds.	
8	29.	Respondents never made a profit with the stock trading investment.
9		IV.
10		VIOLATION OF A.R.S. § 44-1841
11		(Offer or Sale of Unregistered Securities)
12	30.	From on or about September 2007 until approximately October 2008, Respondents
13	offered or sold securities in the form of investment contracts within or from Arizona.	
14	31.	The securities referred to above were not registered pursuant to Articles 6 or 7 of the
15	Securities Act	
16	32.	This conduct violates A.R.S. § 44-1841.
17		V.
18		VIOLATION OF A.R.S. § 44-1842
19		(Transactions by Unregistered Dealers or Salesmen)
20	33,	Respondents offered or sold securities within or from Arizona while not registered as
21	dealers or salesmen pursuant to Article 9 of the Securities Act.	
22	34.	This conduct violates A.R.S. § 44-1842.
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VI.

VIOLATION OF A.R.S. § 44-1991

(Fraud in Connection with the Offer or Sale of Securities)

- 35. In connection with the offer or sale of securities within or from Arizona, Respondents directly or indirectly: (i) employed a device, scheme, or artifice to defraud; (ii) made untrue statements of material fact or omitted to state material facts that were necessary in order to make the statements made not misleading in light of the circumstances under which they were made; or (iii) engaged in transactions, practices, or courses of business that operated or would operate as a fraud or deceit upon offerees and investors. Respondents' conduct includes, but is not limited to, the following:
- a) Representing that the stock trading investment in SIGI was "safe" without adequately disclosing the risks of the investment, and promoting an inflated return.
- b) Representing that the use of margin accounts was a "safe" strategy in the stock trading investment, and failing to adequately disclose the risks.
- c) Representing that the stock trading investment used a conservative strategy of investing in the stock market for not more than one week per month, with the cash funds remaining in a bank account for the remaining period, but changing this strategy in mid-2008 to trade more frequently without advising investors of this change.
- d) Representing that investor funds had "maximum liquidity" and that investors could withdraw their investment with short notice, but failing to return investor money when requested.
- e) Representing to investors that investor funds were deposited in a SIGI trading account, but failing to disclose that the trading accounts were opened by CVETKOVICH individually, with no reference to SIGI.
- f) Failing to inform investors and potential investors that CVETKOVICH had failed to pay federal taxes in 1997 and 2000 totaling \$531,074.06, which resulted in a 2009 tax lien on the trading accounts opened in CVETKOVICH's name individually.

36. This conduct violates A.R.S. § 44-1991.

37. CVETKOVICH directly or indirectly controlled SIGI within the meaning of A.R.S. § 44-1999. Therefore, CVETKOVICH is jointly and severally liable to the same extent as SIGI for its violations of A.R.S. § 44-1991.

VII.

REQUESTED RELIEF

The Division requests that the Commission grant the following relief:

- 1. Order Respondents to permanently cease and desist from violating the Securities Act pursuant to A.R.S. § 44-2032;
- 2. Order Respondents to take affirmative action to correct the conditions resulting from Respondents' acts, practices, or transactions, including a requirement to make restitution pursuant to A.R.S. § 44-2032;
- 3. Order Respondents to pay the state of Arizona administrative penalties of up to five thousand dollars (\$5,000) for each violation of the Securities Act, pursuant to A.R.S. § 44-2036;
- 4. Order that the marital communities of Respondent PRUDEN and Respondent Spouse be subject to any order of restitution, rescission, administrative penalties, or other appropriate affirmative action pursuant to A.R.S. § 25-215; and
 - 5. Order any other relief that the Commission deems appropriate.

VIII.

HEARING OPPORTUNITY

Each respondent including Respondent Spouse may request a hearing pursuant to A.R.S. § 44-1972 and A.A.C. R14-4-306. **If a Respondent or a Respondent Spouse requests a hearing, the requesting respondent must also answer this Notice.** A request for hearing must be in writing and received by the Commission within 10 business days after service of this Notice of Opportunity for Hearing. The requesting respondent must deliver or mail the request to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007. Filing instructions may be

obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at http://www.azcc.gov/divisions/hearings/docket.asp.

If a request for a hearing is timely made, the Commission shall schedule the hearing to begin 20 to 60 days from the receipt of the request unless otherwise provided by law, stipulated by the parties, or ordered by the Commission. If a request for a hearing is not timely made the Commission may, without a hearing, enter an order granting the relief requested by the Division in this Notice of Opportunity for Hearing.

Persons with a disability may request a reasonable accommodation such as a sign language interpreter, as well as request this document in an alternative format, by contacting Shaylin A. Bernal, ADA Coordinator, voice phone number 602/542-3931, e-mail sabernal@azcc.gov. Requests should be made as early as possible to allow time to arrange the accommodation. Additional information about the administrative action procedure may be found at http://www.azcc.gov/divisions/securities/enforcement/AdministrativeProcedure.asp

IX.

ANSWER REQUIREMENT

Pursuant to A.A.C. R14-4-305, if a Respondent or Respondent Spouse requests a hearing, the requesting respondent must deliver or mail an Answer to this Notice of Opportunity for Hearing to Docket Control, Arizona Corporation Commission, 1200 W. Washington, Phoenix, Arizona 85007, within 30 calendar days after the date of service of this Notice. Filing instructions may be obtained from Docket Control by calling (602) 542-3477 or on the Commission's Internet web site at http://www.azcc.gov/divisions/hearings/docket.asp.

Additionally, the answering respondent must serve the Answer upon the Division. Pursuant to A.A.C. R14-4-303, service upon the Division may be made by mailing or by hand-delivering a copy of the Answer to the Division at 1300 West Washington, 3rd Floor, Phoenix, Arizona, 85007, addressed to Stacy Luedtke.

The Answer shall contain an admission or denial of each allegation in this Notice and the original signature of the answering respondent or respondent's attorney. A statement of a lack of sufficient knowledge or information shall be considered a denial of an allegation. An allegation not denied shall be considered admitted.

When the answering respondent intends in good faith to deny only a part or a qualification of an allegation, the respondent shall specify that part or qualification of the allegation and shall admit the remainder. Respondent waives any affirmative defense not raised in the Answer.

The officer presiding over the hearing may grant relief from the requirement to file an Answer for good cause shown.

Dated this 30th day of March, 2012.

Matthew J. Neubert Director of Securities